

Guardianship and Conservatorship Program Regulations

510 BOARD'S REVIEW

510.1 DECISION

1. Decision. For purposes of this title, "Decision" means the Hearing Officer's findings of fact, conclusions of law, and order recommending disciplinary sanction,.
2. Review of Decision. The Board reviews all Hearing Officer Decisions. Either party may file a written Notice of Review within thirty (30) days of the final Decision. The Standard of Practice Committee members shall recuse themselves from all review proceedings. All Board members shall disqualify themselves as necessary according to the standards set out in DR 502.2.6.
3. Notice of Review. The Notice of Review must include the following:
 - A. A statement that review being requested;
 - B. The portion of the Hearing Officer's decision to be challenged;
 - C. The general basis for the review; and
 - D. Whether a full or partial transcript should be ordered pursuant to 510.3.

510.2 TRANSCRIPT OF HEARING

1. Ordering Transcript. AOC must order the entire transcript for an evidentiary hearing held before a Hearing Officer when testimony is heard and suspension or revocation of certification is recommended by the Hearing Officer.
2. Filing and Service. The original of the transcript is filed with the AOC and AOC must serve it on the respondent except if the respondent ordered the transcript.

510.3 RECORD ON REVIEW

1. Generally. The record on review consists of:
 - A. Any hearing transcript or partial transcript; and
 - B. Documents and exhibits admitted into the evidentiary record by the Hearing Officer.

2. References to the Record. Briefs filed must specifically refer to the record if available, using the designations TR for transcript of hearing, EX for exhibits and documents. No Additional Evidence. Evidence not presented to the Hearing Officer must not be presented to the Board.
3. The AOC shall prepare and distribute the record on review to the Board.

510.4 BRIEFS

1. When seeking review by the Board, the respondent has the right to file a brief, which shall include a statement in opposition to the Decision of the Hearing Officer, alleging errors of fact, law, or other pertinent matter.
2. Time for Filing Briefs. Briefs, if any, must be filed within twenty (20) days of service on the respondent CPG of a copy of the hearing transcript unless no transcript was requested. If no transcript was requested, briefs must be filed within twenty (20) days of the filing of the Notice of Review.
3. Disciplinary counsel must file a brief within fifteen (15) days of service on disciplinary counsel of the respondent's brief, or, if no brief is filed by the respondent, within fifteen (15) days of the expiration of the period for the respondent to file a brief.
4. The respondent may file a reply to disciplinary counsel's brief within ten (10) days of service of that brief on the respondent, unless respondent failed to file an initial brief.

510.5 DECISION OF BOARD

1. Basis for Review. Board review is based on the Hearing Officer's Decision, the parties' briefs, and the record on review.
2. Action by Board. The Chair, by virtue of that office, is not disqualified from participating in the review before the Board or from participating in the Board's vote on a matter. On review, the Board may adopt, modify, or reverse the findings, conclusions, or recommendation of the Hearing Officer.
3. Board Order. The Board must issue a written Order within ninety (90) days of the hearing on the appeal. If the Board amends, modifies, or reverses any finding, conclusion, or recommendation of the Hearing Officer, the Board must state the reasons for its decision in a written Order. A Board member agreeing with the majority's Order may file separate concurring reasons. A Board member dissenting from the majority's Order may set forth in writing the reasons for that dissent. The Order should be prepared as expeditiously as possible and consists of the majority's decision together with any written dissent. A copy of the complete Order is served by the AOC on the parties.

4. Board's Order is Final. The Board's Order is final unless the Board is recommending suspension or decertification, in which case the Supreme Court shall review the Board's Decision. The Board will file its decision and the complete record with the Supreme Court.

510.6 CHAIR MAY MODIFY REQUIREMENTS

Upon written motion and for good cause shown, the Chair may modify the time periods in CR 10, and make other orders as appear appropriate to assure fair and orderly Board review.